

SERVED: June 11, 1999

NTSB Order No. EA-4772

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 8th day of June, 1999

_____)	
JANE F. GARVEY,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	
v.)	Dockets SE-15289
)	SE-15364
LOREN G. URIDEL,)	
)	
Respondent.)	
_____)	

OPINION AND ORDER

The respondent, pro se, has appealed from the October 14, 1998 order of Administrative Law Judge William A. Pope, II, granting the Administrator's motion for summary judgment,¹ thus affirming orders of the Administrator, dated May 28 and July 30, 1998, revoking respondent's commercial pilot and airman mechanic

¹The law judge's order is attached. Respondent filed an appeal brief and the Administrator filed a reply.

The cases were consolidated on August 28, 1998.

certificates, pursuant to sections 61.15(a)(2) and 65.12(a)(2) of the Federal Aviation Regulations (FARs), 14 C.F.R. §§ 61.15(a)(2) and 65.12(a)(2), for criminal convictions for drug offenses related to participation in commercial drug activity.² As discussed below, we deny the appeal.

We have little to add to the law judge's thorough analysis of the issue. As noted, the Administrator alleged and respondent admitted that

By corrected judgement of on or about October 8, 1992, *nunc pro tunc* to September 21, 1992, in the Circuit Court, Seventh Judicial Circuit, Flager County, Florida, you were found guilty of the following crimes:

- (a) Conspiracy to Traffic in Cannabis, a first degree felony, and
- (b) Attempted Sale of Cannabis, a third degree

²In an apparent oversight, the law judge, while affirming both of the Administrator's revocation orders (complaints), referenced only the violation of section 61.15(a), cited in the May 28, 1998 order, not the section 65.12(a) violation, cited in the July 30, 1998 order. The regulations are identical, one applies to pilot certificates, and the other applies to, among others, mechanic certificates. It is clear from the law judge's discussion that he meant to grant the motion as to both complaints and, therefore, we will correct the omission in this opinion and order.

FAR section 61.15 provides, in pertinent part:

§ 61.15 Offenses involving alcohol or drugs.

(a) A conviction for the violation of any Federal or State statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marihuana, or depressant or stimulant drugs or substances is grounds for--

* * * *

(2) Suspension or revocation of any certificate or rating issued under this part.

felony.

That an aircraft was not involved in the underlying criminal offense is of no moment. Respondent's convictions were for activities evidencing participation in commercial drug activity. This shows that he lacks the care, judgment, and responsibility required of a certificate holder. See Administrator v. Piro, NTSB Order No. EA-4049 at 3-4 (1993), aff'd, 66 F.3d 335 (9th Cir. 1995). Revocation for such violations found under FAR sections 61.15(a)(2) and 65.12(a)(2) is consistent with policy and precedent. See, e.g., Administrator v. Trupei, NTSB Order No. EA-4661 (1998).

Respondent has identified no error in the law judge's grant of summary judgment. No issues of material fact remain to be decided. We will not delve into the underlying facts of his criminal conviction. See Administrator v. Berryhill, NTSB Order No. EA-4414 at 4 (1996), and cases cited therein. The stale complaint rule does not apply to cases such as this where a lack of qualifications is presented. Administrator v. Hale, NTSB Order No. EA-4590 at 3 (1997). Finally, economic impact is not a proper basis to mitigate an otherwise supportable sanction.

ACCORDINGLY, IT IS ORDERED THAT:

1. Respondent's appeal is denied;
2. The law judge's order granting summary judgment is affirmed, consistent with this opinion; and
3. The revocation of respondent's commercial pilot and airman mechanic certificates shall begin 30 days after the service date indicated on this opinion and order.³

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above opinion and order.

³For the purpose of this order, respondent must physically surrender his certificate to a representative of the Federal Aviation Administration pursuant to FAR section 61.19(f).